

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of	:	Customer Number: 20277
Christopher Robert BEBBINGTON, et al.	:	Confirmation Number: 9929
Serial No.: 10/585,149	:	Group Art Unit: Not Yet Assigned
Filed: June 30, 2006	:	Examiner: Not Yet Assigned
For: TRANSACTIVATION SYSTEM FOR MAMMALIAN CELLS	:	


Mail Stop Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Applicant contacted the Petition Division on April 17, 2008 regarding the Petition for Withdrawal of Holding of Abandonment which was filed on April 1, 2008 via facsimile. Ms. Johnson of the Petition Division stated that the Petition has not yet been received. A copy of the Petition as filed on April 1, 2008 is attached hereto for the Examiner's review convenience. Also, submitted herewith is a Declaration of Patricia A. Balero in Support of the petition.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

  
Andrew Kumomato  
Registration No. 40,690

18191 Von Karman Avenue  
Suite 500  
Irvine, CA 92612-7108  
Phone: 949.851.0633 AK:pab  
Facsimile: 949.851.9348  
**Date: April 17, 2008**

**Please recognize our Customer No. 31824  
as our correspondence address.**

# TRANSACTION REPORT

P. 01

APR-01-2008 TUE 03:18 PM

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DATE	START	RECEIVER	TX TIME(L)	PAGES	TYPE	NOTE	M#	DP
APR-01	03:16 PM	#789915712738300	1' 50" (1)	11	FAX TX	OK	061	

TOTAL : 1M 50S PAGES: 11

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### FACSIMILE

Date: April 1, 2008

Time Sent:

To:	Company:	Facsimile No:	Telephone No:
Mail Stop Petition	U.S. Patent and Trademark Office	1.571.273.8300	
From:	Michelle Z. Cai	Direct Phone:	650.813.5052
E-Mail:	mcai@mwe.com	Direct Fax:	650.813.5100
Sent By:	Patricia A. Balero	Direct Phone:	650.813.4608
Client/Matter/Tkpr:	073678-0026/09341	Original to Follow by Mail:	No
		Number of Pages, Including Cover:	11

Re:

Message:

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Main Facsimile: 949.851.9348 Facsimile Operator: 949.737.7000

U.S. practice conducted through McDermott Will & Emery LLP  
18191 Von Karman Avenue Suite 500 Irvine, California 92612-7108 Telephone: 949.851.0633

MPK 140382-1.073678.0026

# McDermott Will & Emery

Boston Brussels Chicago Düsseldorf Houston London Los Angeles Miami Munich  
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Strategic alliance with MWE China Law Offices (Shanghai)

**FACSIMILE**

**Date:** April 1, 2008

**Time Sent:**

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<b>To:</b>	<b>Company:</b>	<b>Facsimile No:</b>	<b>Telephone No:</b>
Mail Stop Petition	U.S. Patent and Trademark Office	1.571.273.8300	

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<b>From:</b>	Michelle Z. Cai	<i>Direct Phone:</i>	650.813.5052
<i>E-Mail:</i>	mcai@mwe.com	<i>Direct Fax:</i>	650.813.5100
<i>Sent By:</i>	Patricia A. Balero	<i>Direct Phone:</i>	650.813.4608
<i>Client/Matter/Tkpr:</i>	073678-0026/09341	<i>Original to Follow by Mail:</i>	No
		<i>Number of Pages, Including Cover:</i>	11

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**Re:**

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**Message:**

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MPK 140382-1.073678.0026

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of	:	Customer Number: 31824
Christopher Robert BEBBINGTON, et al.	:	Confirmation Number: 9929
Serial No.: 10/585,149	:	Group Art Unit: Not Yet Assigned
Filed: June 30, 2006	:	Examiner: Not Yet Assigned
For: TRANSACTIVATION SYSTEM FOR MAMMALIAN CELLS	:	

**CERTIFICATE OF TRANSMISSION (UNDER 37 CFR 1.8(a)(1))**

I hereby certify that on **April 1, 2008**, this document and all listed attachments are being transmitted via facsimile to (571) 273-8300, Attn: Mail Stop Petition, known to me to be the **USPTO Patent Central FAX Number**, at Commissioner for Patents, Alexandria, VA 22313-1450.

  
PATRICIA A. BALERO

**PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the NOTIFICATION OF ABANDONMENT dated March 27, 2008, Applicants hereby request that the Notification of Abandonment be withdrawn and that prosecution for the application be reopened. (*See Manual of Patent Examination Procedure* § 711.04(c) (2007).) Although Applicants believe that no fee is necessary, the Commissioner is authorized to charge Deposit Account No. 502203 in the amount of \$130.00 to cover the Petition fee.

The Patent Office issued the Notification of Abandonment on the grounds that the Applicants had failed to respond to a Notification of Missing Requirements within the statutory period of two (2) months from the mailing date of March 26, 2007. (*See Notification of Abandonment, Exhibit 1.*)

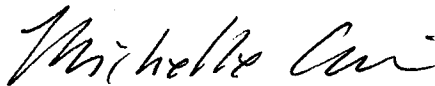
**Serial No.: 10/585,149**

The Applicants' attorney has conducted a search of the internal docket for this application and has found no record that the Notification of Missing Requirements was received from the Patent Office. (*See Remarks, Internal Record from Docket No. 073678-0026, Exhibit 2.*) Moreover, the Patent Office's records available through the Patent Application Information Retrieval (PAIR) system corroborate counsel's internal record. (*See PAIR Record for Application No. 10/585,149, Exhibit 3.*) The PAIR record does not show a Notification of Missing Requirements in March 2007, or thereafter. Further, the PAIR record indicates that, since March 2007, the Applicant has made several filings with the Patent Office, including two Information Disclosure Statements, one on May 22, 2007 and another on November 2, 2007, and a Request for Status of Application on February 28, 2008. The Applicants' subsequent submissions and request are additional proof that the Applicants never received the Notification of Missing Requirements and never intended to abandon the application.

The Applicants submit that they did not receive the Notification of Missing Requirements, and as such, the Applicants respectfully request that the Notification of Abandonment be withdrawn and that the fee for this Petition be waived.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Michelle Z. Cai  
Registration No. 50,599

3150 Porter Drive  
Palo Alto, CA 94304  
Phone: 650-813-5000  
Facsimile: 650-813-5100  
**Date: April 1, 2008**

**Please recognize our Customer No. 31824  
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MPK 140269-1.073678.0026

# **EXHIBIT**

**1**



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

U.S. APPLICATION NUMBER NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/585,149	Christopher Robert Bebbington	073878-0026

31824  
MCDERMOTT WILL & EMERY LLP  
18191 VON KARMAN AVE.  
SUITE 500  
IRVINE, CA 92612-7108

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INTERNATIONAL APPLICATION NO.	
PCT/US04/03830	
I.A. FILING DATE	PRIORITY DATE
12/30/2004	12/31/2003

CONFIRMATION NO. 9929  
371 ABANDONMENT/TERMINATION  
LETTER



Date Mailed: 03/27/2008

NOTIFICATION OF ABANDONMENT

The United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495) has made the following determination:

- Applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed 03/26/2007 within the time period set therein.

Therefore, the above identified application failed to meet the requirements of 35 U.S.C. 371 and 37 CFR 1.495, and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

PAULETTE R KIDWELL

Telephone: (703) 308-9140 EXT 216

# **EXHIBIT**

**2**



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# Country Application

Matter: 073678-0026

Tuesday, March 25, 2008

Page: 1

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Family Number: 073678-0012

SubCase: A002

Country: US United States of America

Client: Kalobios, Inc.

Family Name:

Sub Matter:

Group Art No.:

Client Reference #:

Responsible Atty.: NC

Assigned Atty.: AAK

Paralegal:

Other MWE Office Contact:

Case Type: PCT

Application Status: Pending

Earliest Priority Date: 31-Dec-2003

Application Number: 10/585,149

Filing Date: 30-Jun-2006

Publication Number:

Publication Date:

Patent Number:

Issue Date:

Parent/PCT Number: PCT/US2004/043830

Parent/PCT Date : 30-Dec-2004

Parent Issue Number:

Parent Issue Date :

Tax Schedule: LE

Expiration Date:

Confirmation #:

Patent Term Adjustment: 0

Owner:

Owner Reference #:

Agent:

Agent Reference #:

App.Title: TRANSACTIVATION SYSTEM FOR MAMMALIAN CELLS

Family Reference: #Error

**List Of Actions**

<b>Action(s) Due</b>	<b>Due Date</b>	<b>Action Taken</b>
Information Disclosure Stmtnt	30-Sep-2006	Due Date 29-Sep-2006
Filing Receipt Yet?	30-Dec-2006	Reminder 29-Dec-2006
FILING RECEIPT YET?	30-Jan-2007	Reminder 18-Jan-2007
FILING RECEIPT YET?	28-Feb-2007	Reminder 28-Feb-2007
FILING RECEIPT YET?	28-Mar-2007	Reminder 27-Mar-2007
FILING RECEIPT YET?	28-Apr-2007	Reminder 30-Apr-2007
FILING RECEIPT YET?	28-May-2007	Reminder 25-May-2007
FILING RECEIPT YET?	28-Jun-2007	Reminder 27-Jun-2007
FILING RECEIPT YET?	28-Jul-2007	Reminder 27-Jul-2007
FILING RECEIPT YET?	28-Aug-2007	Reminder 28-Aug-2007
FILING RECEIPT YET?	28-Nov-2007	Reminder 27-Nov-2007
Office Action Received?	30-Dec-2007	Reminder 28-Dec-2007
FILING RECEIPT YET?	28-Feb-2008	Reminder 27-Feb-2008
FILING RECEIPT YET?	28-Apr-2008	Reminder
OA RECD YET?	30-Jun-2008	Reminder

**Remarks:**

Nat Phase Appln w/trans, Spec (67 pgs), Claims (5 pgs), Abstract, Drwgs (22 pgs), SE, Decl/POA, Prel Amd, Int'l Sch Rpt, Int'l Publ & \$825 f. 6/30/06 COM; Pstcd w/SN recd 7/25/06; Prel Amd f. 10/12/06 via fax per PB; IDS e-filed 5/22/07; IDS f. 11/2/07 citing EP OA per PB 12/3/07;

# **EXHIBIT**

**3**

10/585,149 Transactivation system for mammalian cells

03-25-  
2008::17:53:53

This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click PDF.

**Available Documents**

Mail Room Date	Document Code	Document Description	Document Category	Page Count
03-12-2008	WFEE	Fee Worksheet (PTO-06)	PROSECUTION	1
03-12-2008	WCLM	Claims Worksheet (PTO-2022)	PROSECUTION	1
02-28-2008	STATUS.LET	Request for status of Application	PROSECUTION	2
11-02-2007	IDS.LET	Information Disclosure Statement Letter	PROSECUTION	2
11-02-2007	IDS	Information Disclosure Statement (IDS) Filed	PROSECUTION	1
11-02-2007	FOR	Foreign Reference	PRIOR ART	197
11-02-2007	FOR	Foreign Reference	PRIOR ART	155
11-02-2007	FOR	Foreign Reference	PRIOR ART	4
11-02-2007	N417	Status Letter Mailed to Applicant	PROSECUTION	2
05-22-2007	IDS	Information Disclosure Statement (IDS) Filed	PROSECUTION	4
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05-22-2007	NPL	NPL Documents	PRIOR ART	10
05-22-2007	NPL	NPL Documents	PRIOR ART	7
05-22-2007	NPL	NPL Documents	PRIOR ART	15
05-22-2007	NPL	NPL Documents	PRIOR ART	12
05-22-2007	NPL	NPL Documents	PRIOR ART	6
05-22-2007	NPL	NPL Documents	PRIOR ART	9
05-22-2007	NPL	NPL Documents	PRIOR ART	5
05-22-2007	NPL	NPL Documents	PRIOR ART	10
05-22-2007	NPL	NPL Documents	PRIOR ART	15
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05-22-2007	NPL	NPL Documents	PRIOR ART	13
05-22-2007	NPL	NPL Documents	PRIOR ART	12
05-22-2007	NPL	NPL Documents	PRIOR ART	13
05-22-2007	NPL	NPL Documents	PRIOR ART	13
05-22-2007	NPL	NPL Documents	PRIOR ART	9
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10-12-2006	A.PE	Preliminary Amendment	PROSECUTION	3
10-12-2006	CLM	Claims	PROSECUTION	11
10-12-2006	REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	1
06-30-2006	TRNA	Transmittal of New Application	PROSECUTION	4
06-30-2006	ABST	Abstract	PROSECUTION	1
06-30-2006	DRW	Drawings-only black and white line drawings	PROSECUTION	22
06-30-2006	SEQLIST	Sequence Listing	PROSECUTION	1
06-30-2006	OATH	Oath or Declaration filed	PROSECUTION	2
06-30-2006	WFEE	Fee Worksheet (PTO-06)	PROSECUTION	1
06-30-2006	A.PE	Preliminary Amendment	PROSECUTION	1
06-30-2006	SPEC	Specification	PROSECUTION	1
06-30-2006	REM	Applicant Arguments/Remarks Made in an Amendment	PROSECUTION	1
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06-30-2006	371P	Documents submitted with 371	PROSECUTION	24

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06-30-2006	371P	Documents submitted with 371 Applications	PROSECUTION	6
06-30-2006	SPEC	Specification	PROSECUTION	66
06-30-2006	CLM	Claims	PROSECUTION	4
06-30-2006	ABST	Abstract	PROSECUTION	1
06-30-2006	SPEC	Specification	PROSECUTION	67
06-30-2006	CLM	Claims	PROSECUTION	5
06-30-2006	DRW	Drawings-only black and white line drawings	PROSECUTION	22
06-30-2006	SEQLIST	Sequence Listing	PROSECUTION	24
06-30-2006	ABST	Abstract	PROSECUTION	1
06-30-2006	P.210.IN	Incoming ISR, 237 & References from IB	PROSECUTION	1
06-30-2006	FRPR	Certified Copy of Foreign Priority Application	PROSECUTION	84
06-30-2006	P.409.IN	Incoming IPEA/409 - Int'l Prelim Report on Patentability	PROSECUTION	4
06-30-2006	WCLM	Claims Worksheet (PTO-2022)	PROSECUTION	2
06-30-2006	WFEE	Fee Worksheet (PTO-06)	PROSECUTION	1
06-30-2006	WFEE	Fee Worksheet (PTO-06)	PROSECUTION	1

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